



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 34673704

Date: DEC. 23, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, an artificial intelligence (AI) researcher, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not satisfied the initial evidentiary criteria, of which he must meet at least three. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner, an AI researcher, intends to continue his activities in this field in the United States. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The Director found that the Petitioner met two of these ten criteria, relating to his participation as a judge of the work of others in his field and his authorship of scholarly articles, and we agree with the Director’s determination. *See* 8 C.F.R. § 204.5(h)(3)(iv), (vi). On appeal, the Petitioner asserts that the Director erred in assessing the evidence submitted with respect to several other regulatory criteria found at 8 C.F.R. § 204.5(h)(3).

A. Evidentiary Criteria

1. Membership in Associations Requiring Outstanding Achievement of Their Members.

To meet this requirement, a petitioner must submit documentation of their “membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.” 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner initially provided evidence of his purported memberships in the following groups:

- Association for the Advancement of Artificial Intelligence (AAAI)
- International Association of Engineers (IAENG)
- Electrical and Electronics Engineers (IEEE) Computer Society
- International Society for Applied Computing (ISAC)

The Petitioner also claimed to be a member of Scale Artificial Intelligence, Artificial Intelligence, and the Institute of Electrical and Electronics Engineers, but did not submit documentation in support of this claim.

The Director issued a request for evidence (RFE), noting that the Petitioner's evidence must be supported by documentary evidence that these associations require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. In response, the Petitioner submitted copies of the constitutions and bylaws for AAAI, ISAC, and the IEEE Computer Society. No further documentation pertaining to his claimed membership in IAENG was provided.

Although the Petitioner has provided documentation in support of his membership in three AI-related organizations, the record is insufficient to demonstrate that the Petitioner has satisfied this criterion. For example, the documentation pertaining to his membership in AAAI, dated May 6, 2023, states that his "application for membership has been received and is currently being processed," thereby raising questions as to whether the Petitioner was actually a member of this association at the time of filing. Moreover, AAAI's bylaws state that "[a] person becomes a member (Regular or Student) upon acceptance of an application for membership by the corporation and the payment of dues." There is no indication in the association's bylaws that membership in AAAI requires outstanding achievements of their members or that national or international experts judge the achievements of aspiring members.

The Petitioner also submitted a certificate from the IEEE Computer Society indicating that he was an "affiliate in good standing." Similar to AAAI, the IEEE Computer Society's bylaws are silent on whether the organization requires outstanding achievements of its members as judged by international experts. The bylaws simply identify the classes of membership, which include member, society affiliate, associate, student, and graduate student, and indicate that to transfer to the class of member, a candidate shall either be a member (or higher grade) of the IEEE or be qualified as an IEEE affiliate.

The documentation pertaining to the Petitioner's membership in ISAC is likewise insufficient. The Petitioner presented an undated certificate indicating that he is a senior member of the organization. The organization's constitution and bylaws simply state that membership "is open to all persons who share the stated purposes of the Society and who have educational, research, or practical experience in some aspect of cytometry." As membership in ISAC is open to any person desiring to be a member that meets these requirements, outstanding achievements, as judged by recognized national or international experts, are not requirements for membership with this organization.

Finally, although the Petitioner submitted letters from IAENG confirming his membership, the Petitioner declined to submit evidence of the membership requirements for this association. The Petitioner also failed to provide evidence that admittance is determined by nationally or internationally recognized experts in the field. As the record does not contain the bylaws or other official documentation of this association's membership criteria, we cannot evaluate whether the Petitioner's membership is qualifying.

The record lacks evidence that any of the organizations discussed above require outstanding achievements of their members or that national or international experts judge the achievements of aspiring members. *See, e.g., Braga v. Poulos*, No. CV 06-5105, 2007 WL 9229758, *5 (S.D. Cal. July

6, 2007), *aff'd*, 317 Fed. Appx 680 (9th Cir. 2009) (holding that, without evidence that any of the organizations required outstanding achievements of their members, a petitioner's membership in multiple Jiu Jitsu organizations did not satisfy 8 C.F.R. § 204.5(h)(3)(ii)). Thus, the Petitioner has not met this evidentiary requirement.

2. Original Contributions of Major Significance.

To meet this requirement, a petitioner must submit “[e]vidence of the [noncitizen’s] original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.” 8 C.F.R. § 204.5(h)(3)(v). USCIS should first determine whether a noncitizen has made original contributions in their field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1), <https://www.uscis.gov/policy-manual>. If so, the Agency should then determine whether any of them are of “major significance.” *Id.*

In support of his purported original contributions to his field, the Petitioner submitted seven support letters. Two former university professors of the Petitioner praise his academic achievements and acknowledge his research accomplishments in machine learning and AI as it pertains to the agroecosystem. A senior research scientist from the Petitioner’s current employer states that since he was hired, the Petitioner has “successfully built AI models from scratch” and “has retrained artificial intelligence systems and models.” While these letters generally offer praise for the Petitioner’s skills and accomplishments in the field of AI, they do not specify the significance of the Petitioner’s contributions to his field. Moreover, the authors comprise former professors and the current employer of the Petitioner. *See, e.g., Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, *5 (N.D. Tex. Nov. 29, 2022) (holding that 8 C.F.R. § 204.5(h)(3)(v) “requires substantial influence beyond one’s employers, clients, or customers”) (citations omitted).

The other four support letters also do not specify the significance of the Petitioner’s contributions to his field. For example, a letter from a technologist employed by [REDACTED] states that he is familiar with the Petitioner’s publications and conference presentations. He briefly discusses the Petitioner’s AI work in the field of animal husbandry, and concludes that “given the fact that citations are the hallmark of a researcher’s impact, it is clear evidence that he has generated contributions of major significance that have been widely recognized in the Science, Technology, Engineering and Math (STEM) field.” Another [REDACTED] employee states that the Petitioner has made “several noteworthy contributions” to AI and computational agriculture research, but he fails to specify or discuss in detail the nature and significance of those contributions. A professor from the [REDACTED] highlights the citation statistics for the Petitioner’s peer-reviewed article and concludes that such statistics highlight the impact of his work. A senior data scientist from [REDACTED] opines that the Petitioner is an expert in the area of high-performance computing and that his research in pattern recognition “is of immense impact on our society today.” He further concludes that the Petitioner’s research impacts the U.S. Department of Agriculture’s long-standing efforts to address food security and advance food and nutritional security.

To establish “major significance,” evidence must show that a petitioner’s work has been “widely” adopted or replicated by people in the field who are unaffiliated with the petitioner. *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022). The evidence must include “specific information relating to the impact of a petitioner’s work in the field as a whole.” *Visinscaia*, 4 F.Supp.3d at 134. Here, the

Petitioner's letters do not contain specific, detailed information explaining the unusual influence or high impact his research or work has had on the overall field. Rather, they simply opine that the Petitioner is a skilled and successful researcher. It is the Petitioner's burden to both specify his original contributions and to document the major significance of those contributions in the field.

While we acknowledge the Petitioner's research contributed to the field, as is inherently the case of research-type fields, the letters did not establish how those contributions have been majorly significant, as required by the regulation. *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1). Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *Id.* Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise. *Id.* In this case, the letters lacked specific, detailed information explaining how the Petitioner's contributions have influenced or impacted in a majorly significant manner or have somehow risen to level considered to be of major significance. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Further, the Petitioner submitted copies of his published scholarly articles in the field as well as citation statistics. But the record does not show that others in the field regularly cited his articles or otherwise explain their significance. *See* 6 USCIS Policy Manual, *supra*, at F.(2)(B)(1) ("[P]ublished research that has provoked widespread commentary on its importance from others working in the field, and documentation that it has been highly cited relative to others' work in that field, may be probative of the significance of the person's contributions to the field of endeavor"). While other researchers' reliance on the Petitioner's work is a positive element, and can be a method to corroborate the assertion that the Petitioner's noteworthy influence on the work of others establishes that his contributions in the field are of major significance, the Petitioner has not submitted evidence to demonstrate that a good number of researchers have been sufficiently influenced by his work such that it rises to the level of major significance in the field. The Petitioner has not demonstrated how the citing articles place a heavy reliance on his work to support their own findings or that the number of citations is indicative of a widespread influence.

We acknowledge the Petitioner's assertion that researchers from multiple countries have cited to his work and that such citations demonstrate that international sources have noticed and referenced his work. Although others within the Petitioner's field have relied on his research findings within their own work, this is insufficient to demonstrate that the Petitioner has made contributions of major significance within the field. While such citations to his work signify a contribution in the field, the Petitioner has not provided evidence that demonstrates the impact of the articles that cite his work, or that these citing articles have been considerably influential within the field as a whole.

On appeal, the Petitioner asserts that the Director erred by not considering the increase in citations to the Petitioner's work subsequent to the filing of the petition. In support of this assertion, the Petitioner refers to our non-precedent decision concerning the acceptance of updated citation history after the petition's filing. This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Unpublished agency decisions and advisory legal opinions are not binding, even when they are published in private publications or widely

circulated. *R.L. Inv. Ltd Partners v. INS*, 86 F. Supp. 2d 1014, 1022 (D. Haw. 2000), *aff'd*, 273 F.3d 874 (9th Cir. 2001). Nevertheless, the facts of that case are distinguishable from those presented in this matter, as the case relied on by the Petitioner pertains to a request for employment-based second preference immigrant classification, as well as a national interest waiver of the job offer requirement attached to that classification, pursuant to section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2).

As properly noted by the Director, the Petitioner must meet all eligibility requirements at the time of filing. See 8 C.F.R. § 103.2(b)(1). Subsequent facts cannot retroactively establish eligibility. See *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Therefore, we do not agree with the Petitioner's assertion that the Director erred by not considering the additional citations to the Petitioner's work subsequent to the filing of the petition.

As the Petitioner has not sufficiently demonstrated the significance of his contributions to his field, we will affirm the Director's finding that he did not meet the evidentiary requirement at 8 C.F.R. § 204.5(h)(3)(v).

3. Performance in a leading or critical role for organizations or establishments that have a distinguished reputation.

To qualify under this criterion, a petitioner must show that they played a leading or critical role for an organization or establishment, and that that organization or establishment has a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii). When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1). A title, with appropriate matching duties, can help to establish that a role is or was leading. *Id.* For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.*

The Petitioner maintains that he has performed in a leading or critical role for [REDACTED]
[REDACTED] In support of this assertion, the Petitioner submits a copy of his letter of appointment to the position of Director of Information and Computer Technology (ICT), which indicates that the duties of his position included developing and implementing ICT strategies in line with the institution's goals and objectives, overseeing the maintenance and upgrading of the institution's ICT infrastructure, leading and managing the ICT team to ensure efficient delivery of services, providing expert advice and guidance on ICT related matters to senior management, and ensuring compliance with relevant ICT policies, procedures, and regulations. The Petitioner also submitted an appropriation bill and a letter of commendation in support of the assertion that he meets the plain language of this criterion.

The Petitioner also claims that he performs in a leading or critical role for his current employer, where he serves as an AI researcher. A letter from a senior AI researcher at the company indicates that the Petitioner has "successfully built AI models from scratch" and "has retrained artificial intelligence systems and models," in addition to implementing machine learning algorithms.

While the documentation suggests that the Petitioner played a significant role in these organizations, the submitted evidence is not sufficient to demonstrate that the Petitioner's role was leading or critical. For example, the Petitioner did not provide an organizational chart or other similar evidence to establish where his role fit within the overall hierarchy of the organizations to demonstrate a leading role. Nor does the evidence demonstrate that he has contributed to the organizations in a way that was of significant importance to the outcome of their business operations. While the letter from his current employer makes the broad claim that the Petitioner is "a true genius in the field of AI," it did not further elaborate and articulate how the Petitioner's role was leading or critical to the company. Letters from employers, attesting to an employee's role in the organization, must contain detailed and probative information that specifically addresses how the person's role for the organization or establishment was leading or critical. *See id.*

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer base or relevant media coverage. "Merriam-Webster's online dictionary defines 'distinguished' as 'marked by eminence, distinction, or excellence' or 'befitting an eminent person.'" *Id.* Here, the Petitioner has not demonstrated that the organizations have distinguished reputations. In denying the petition, the Director noted that the Petitioner did not submit evidence, such as media coverage, to support the assertion that [REDACTED] has a distinguished reputation. Although the Petitioner objects to the Director's statement on appeal, we note that relevant factors for evaluating the reputation of an organization or establishment can include the scale of its customer base or relevant media coverage. *See id.*

Although the Petitioner asserts that his current employer is a [REDACTED] contractor and submits media coverage regarding its contracts and the company's role in the AI sector, this fact alone is insufficient to establish the company's eminence, distinction, or excellence. While the submitted documentation confirms that his current employer has obtained government contracts, the evidence does not demonstrate that the company itself has a distinguished reputation. Without more, the evidence is insufficient to establish that the company has a distinguished reputation as required by the regulation at 8 C.F.R. § 204.5(h)(3)(viii).

For the reasons outlined above, the Petitioner has not met the evidentiary requirements of 8 C.F.R. § 204.5(h)(3)(v).

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner

has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage at very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability.

ORDER: The appeal is dismissed.